

COMMUNITY DEVELOPMENT AGENCY PROCEEDINGS

January 12, 2022

The Community Development Agency of the City of David City, Nebraska, met in open public session at 9:07 p.m. in the lower level of the David City Auditorium at 699 Kansas Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on January 6, 2022 and an affidavit of the publisher is on file in the office of the CDA Secretary. The Community Development Agency members acknowledged advance notice of the meeting. The advance notice to the Public, and Community Development Agency members conveyed the availability of the agenda, which was kept continuously current in the office of the Secretary and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the meeting. The meeting was held at the City Auditorium due to the COVID-19 pandemic so as to incorporate social distancing strategies. [It is recommended that individuals be kept at least 6 feet apart.]

Present for the meeting were: Community Development Agency Members—Alan Zavodny, Tom Kobus, Bruce Meysenburg, John Vandenberg, Kevin Woita and Pat Meysenburg. City Attorney Joanna Uden, Community Development Agency Secretary Tami Comte and Dana Trowbridge were also present. Michael Sands, Attorney with BairdHolm and Dave Ziska with Olsson were present via Zoom. CDA member Jessica Miller was absent.

Chairman Alan Zavodny informed the public of the "Open Meetings Act" posted on the north wall of the meeting room and asked those present to please silence their cell phones. He also asked that anyone addressing the Agency to introduce themselves.

CDA member Pat Meysenburg made a motion to accept the minutes of the December 8, 2021 meeting of the Community Development Agency as presented. CDA member Tom Kobus seconded the motion. The motion carried.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Absent, John Vandenberg: Yea, Alan Zavodny: Yea, Kevin Woita: Yea
Yea: 6, Nay: 0, Absent: 1

Michael Sands from BairdHolm introduced himself and said, "Dave Ziska from Olsson's is on as well and we were going over the plat for the residential subdivision and that will kind of be the first step in moving forward on the TIF part. It doesn't have to be set in stone but we do need a pretty good idea of how many lots there are going to be and what are the size of lots so we can know what kind of houses will be built on them and that will help us figure out the range of valuations. So, Dave sent a couple of versions of the plat which, hopefully, you've been able to review those. One has forty-two different lots and one has, I believe, thirty-five lots. Is that right, Dave?"

Dave Ziska from Olsson said, "Yes. The one version has forty-two lots and they were approximately 60' x 120'. There are a few odd shaped lots, but that generated about forty-two for a lot count. Then it was expressed that maybe a little bit larger lots might be desired. Something more like the subdivision on the east side of town, south of "O" Street, where the lots are more like 75' x 120'. So, going through that rendering or concept, we end up with a lot count of thirty-five."

Michael Sands from BairdHolm said, "So, based on those options, before we go down one road or the other, like I said it's not set in stone, what we do have are good ideas on how to

start the TIF process. I just wanted to talk a little bit about the ramifications of the platting and how that relates to TIF. Mainly, if the City is the developer for all intents and purposes on this project, with respect to the TIF, obviously, there will be private developers that come in and build the actual houses, but they won't be the ones that will be receiving the TIF. The City will be putting up the credit on this project and incurring debt. Dave has provided very preliminary estimates for mostly site preparation work of around two million dollars. Again, those are very preliminary and, obviously, we'll get the numbers when it goes out to bid, but that does not include water, street lighting, gas and electrical. If you look at the two million as a preliminary estimate plus five or six hundred thousand for those other costs. I'm just pulling that out of thin air for purposes of example. Then, we know what stake the City will have in it, then you can kind of work backwards to figure out is there enough TIF to underwrite this. So, just for purposes of example, I kind of did some quick math to kind of figure out what we were looking at based on the two plats. So, if you have forty-two lots, obviously, you're looking at smaller lot sizes for the most part, so if you picked an average valuation of \$225,000 and you take away the base value or what they are currently valued at, and I used \$5,000 per lot just as base value. We're looking at maximum TIF over fifteen years is \$2,329,000. So, with forty-two lots at \$225,000, we're likely looking at a shortfall of the overall project cost. Now, if you reduce it down to thirty-five lots, say at \$250,000 valuation, the houses would be a little bit bigger and a little bit nicer, you would be looking at slightly over two million, so it goes down. I did an estimate of twenty lots at \$250,000, twelve lots at \$275,000, so you have some lots that are a little nicer houses than others and you're looking at around \$2.2 million. The point of it is that there has to be a balance between, you obviously want the lots to be desirable, they can't be so small and just try to pack as many lots in there, but as we go down in lots, you go up in valuation. With TIF, it's probably going to go down in the amount of TIF generated just because volume of lots is almost always going to generate more TIF than slightly higher value plus lots. That's what I wanted to outline. Obviously, we're working up the preliminary figures for what we're estimating the costs will be. Nothing will be perfect at this point but, I do want us to focus early-on on that issue because what we don't want to do is get a few months down the road and we've done all of this legwork and then we realize that there's a huge shortfall in what we're estimating in TIF for what the bids come in for. That is kind of the purpose of discussing this with you and I'm happy to answer any questions that you may have, but I really kind of wanted to just put this on you radar and get everybody thinking about that at this stage when we're kind of finalizing the plat."

Chairman Alan Zavodny said, "That does raise a few points of discussion. We had also talked about leveraging some TIF from a different area and using it here because two million for just site prep without any of the infrastructure pieces certainly doesn't look great, but my bigger concern as I thought about things going over is, at least at first blush, it appears that workforce housing might have some strings that may be too restrictive for us to call it workforce. Can we do workforce without having to meet the workforce requirements because starting with that expense right there because we may be above the value that they allow, I guess."

Michael Sands said, "It just depends on if you're actually going to go out and get the LB840 workforce grants. If you're not doing that then workforce housing is more of a buzz word than anything else. If you are going to go out and get the grants then I think that the limitation on it for the for-sale houses, the maximum that they can be sold for is \$275,000 for the statute and it counts for inflation, so I think it's more like \$285,000 now. That's a big limitation on workforce housing, so you have to put some covenants in that basically only allow for development to develop houses at that cost or below. Obviously, there are certain hoops that you would have to jump through if you apply for those grants, but the main restriction is the price point."

Chairman Zavodny said, "Well, here's where I think that we've hit a timing issue, is that current materials cost and price per square foot is certainly the highest that it's ever been in my lifetime. You used to say that you could build a house for \$100 to \$105 per square foot and a lot of times those numbers are coming in double. I don't know how you make that work and try to get the grants at least. Does that make sense?"

Michael Sands said, "Yes, it would be a bit of a leap of faith. Those houses aren't going to be built for maybe a year."

Chairman Zavodny said, "You better hope that prices come back down to what is a reasonable rate, I guess."

Michael Sands said, "Right. You just have to hope that's the case. It's hard to say what they will do. I think that Dave could probably speak to that, as well. That would be a risk and, I guess, factoring in the workforce housing grant, as far as a capital stack and relying on those. If you're not, then it's really stipulations. It would really be if you're going after the grant and if not, there really wouldn't be any limitations on the price point."

Chairman Zavodny said, "Is there any hope of them changing that program because the way it is now and what their limit is, I don't think that you can build a house for the price point because they've set it so low."

Michael Sands said, "Yea. I would expect that this year they would raise it, after last year when it went up to \$285,000 from \$275,000. I'm not quite sure what that will be. It might be after the legislative session. I would assume, just based on inflation and materials costs that that number has to go up. I assume it will."

Chairman Zavodny said, "I don't want to have to guess at the number that we're shooting for is and so, is that set legislatively?"

Michael Sands said, "It's not."

Chairman Zavodny said, "Is it the Department of Economic Development?"

Michael Sands said, "I don't think it's DED. I'd have to check on that. I'm not sure who sets that. That's something that I can easily check on."

Chairman Zavodny said, "Mike, I think that sets the foundation for the discussion that we need to have. If you're hell-bent on the grant piece, which I've become a little less enamored with, and we sell lots that are a decent size, that you can build a decent house on, and I've had people argue with me the last two weeks that it never works for workforce development for people to build a new house and their house becomes available – that's workforce housing. There's a natural length there, to some extent."

Michael Sands said, "It really depends on what you want this subdivision to look like. If you want to have \$300,000 homes and up then you're probably not going to be able to use grants."

Chairman Zavodny said, "Is there any way to have a mixed use of some higher end houses and some..., can we split it somehow?"

Michael Sands said, "Yea, so when you apply for the grant, you could limit the number of lots. I think you could do that by phases."

Chairman Zavodny said, "I think that makes the most sense so we could build the houses that qualify for workforce but right now, I penciled out several different things. I just don't see how you can build a house for that low of value in today's market. They're going to have to address it somehow. David City isn't Omaha or Lincoln. It's got to be worse there. You're starting with a basis and a lot of \$200,000."

Discussion followed.

Chairman Zavodny said, "We're going to need to throw everything in our toolbox at this to make it cash flow, is kind of where I've landed on trying to pencil this out."

Michael Sands said, "Obviously, I don't know if the CDA has thought about what they'll sell the lots for but that will offset some of the costs."

Chairman Zavodny said, "Just to clarify, so I understand this, and I'm not holding you to this number but, \$285,000 is lot, new construction, and improvements, that's the cap number?"

Michael Sands said, "Yes. It's the sale price."

Chairman Zavodny said, "That's why I thought it would be important to have this discussion tonight. Maybe the constraints of the workforce grant maybe don't work for us the best. What do you think?"

Dana Trowbridge said, "There are other avenues beyond workforce housing. Workforce doesn't work well in David City because we don't have the right mechanisms to do it. Unless SENDD comes along and works some magic and that isn't going to happen."

Chairman Zavodny said, "It hasn't yet."

Dana Trowbridge said, "With \$285,000, that's why the lot price is very significant. What did he use for lot price? I can't hear him."

Chairman Zavodny said, "He said \$5,000 as a base and so we set the lot price. So, the question is, what price do you put on a lot in David City?"

Dana Trowbridge said, "\$400 per foot. A seventy-five foot lot is \$30,000."

Chairman Zavodny said, "So then your construction costs have to be \$255,000. What can you build for that today?"

Dana Trowbridge said, "What's going really well in the last year has been up-scale duplexes called townhomes because now you have a \$400,000 package that is \$200,000 on each side."

Chairman Zavodny said, "You don't have the basement cost."

Dana Trowbridge said, "You do a nice crawl space with no basement and you can do it with a shared wall."

CDA member Bruce Meysenburg said, "Do we want to do that up there? We want single-family units."

Chairman Zavodny said, "We may not have a choice."

Dana Trowbridge said, "You can't build used houses. This is what draws used housing is the sixty-year-old moving into this duplex that's on one level and it's the last move of their lifetime and that house is now for sale."

Chairman Zavodny said, "I think that's a great question. That's the thought process that I had looking at this, too. I can't come up with a way that you can build a house when you consider a \$285,000 cap. Which is ten thousand more than I was working on, granted. I thought it was \$275,000 but you can't do it today. Do you remember what Dana Point charged for lots?"

CDA Secretary Tami Comte said, "I looked that up on the Assessor's site and it said \$36,000."

Chairman Zavodny said, "We believe that it's more today, but it was around \$36,000 at the time."

CDA Secretary Tami Comte said, "They are also seventy-five foot lots."

Chairman Zavodny said, "Well, I think we probably need to make some adjustments. I like the way that it's designed that we can continue on because that's also been part of the discussion recently of moving further east, also."

Dana Trowbridge asked Michael Sands, "For a spreadsheet analysis, what would you use for the average number of buildings per year? Just a good guesstimate. Is it above three?"

Michael Sands said, "Yeah. So, I'm sure I could have information put together when we get a little bit down the road, but for purposes of how you underwrite it and cash flow it, it largely is not a big factor. How we do these projects is to base them on a year-by-year basis. So, basically, every year we look at which lots got built out and you start the division of taxes for the fifteen-year period on only those lots that got built out in a single year and then the next year you do the same thing. Year-by-year you do the same thing until everything gets built out. That allows you to maximize all of the allowable TIF. If you start the fifteen years for all forty-two lots, you're going to fall way short, so that's what we do in order to maximize it. Now, that could lead to a total TIF period for the entire project, obviously each lot only has fifteen-years, but the project might have some TIF being generated for twenty-five years. It might take ten years to build out all of those lots. To answer your original question, it just depends. I think we rely heavily on the City to tell us how marketable these lots are and how many they think they can sell and get built out on a yearly basis. We wouldn't put that information together, but for purposes of sizing the TIF it largely doesn't factor out."

Chairman Zavodny said, "If experience is any indication, when 11th Street was developed, the Dana Point project, it went even faster than that, but I think some of the things that we're going to have to juggle during this is when we present the plat, if someone says that they want a specific lot way over where we aren't doing that phase yet, so we're going to have to compartmentalize to some extent so we don't build any more street before we need to build it and add expense early-on that we're not going to recoup right away. Does that make sense? We're going to have to say that these eight lots are available on year one or until they are filled."

Does that make sense? We can't just let people decide that they want to be over here and over here. That's not phasing."

Dana Trowbridge said, "You just tell them that they are not for sale."

Michael Sands said, "But certainly a good way to negate the City's risk is, Dave and I worked on a similar project and what they ended up doing is going part by part on the infrastructure. The deeper that you get into the lot, the project area, the more you build out, so that's certainly a way that you can mitigate your risk. Obviously, especially when construction costs are so high. At times when they are low, you might want to do it all at once. It's going to be cheaper to do it all at once. You have everything in a vacuum than to do it little by little, but you mitigate a lot more risk if you do it by phase."

Chairman Zavodny said, "Ok. Let me ask a couple questions on other problems. I want to make sure that we do this right. Someone buys one and decides that they don't want to build this year or next year. How much power do we have to make them build? Also, the other part of that is if someone wants to build a bigger house and they want to buy two lots. So now that becomes a value thing where even at thirty thousand per lot, now you've got sixty thousand and maybe they're going to build a bigger house that's \$300,000 or \$400,000. How do you manage those types of things? Buying two lots and someone who doesn't develop it right away?"

Michael Sands said, "So, you have as much power as you want over that because you can file covenants, conditions and restrictions and that can really determine how it's built out. You can also work it into a purchase agreement so you can have a stipulation in the covenants or the purchase agreement that survives the sale that says that they have to start building within two years otherwise we will purchase it back from you. That's a must have. So that's what you would do to ensure that people actually build in a timely fashion. As far as lot configuration, where you have to build this expensive of home, or things like that, that can all be laid out in the covenants. You can apply it to the entire subdivision or you can apply it to all the lots or you can say that it's just some lots or however you want to do it. You can have a lot of control over that. As long as you own the entirety of the parcel, you can file a common regime that lays out those."

Chairman Zavodny said, "Great. That helps a lot and alleviates one of the big problems. Have you worked on projects where you have a wide range of the, for lack of better words, expense of what is put on those lots, like a \$200,000 house here and a \$400,000 house next to it? If we're going to phase it and we really want to use workforce housing, then they are all going to have to meet that \$285,000. Have you worked on projects that have the wide range?"

Michael Sands said, "Yeah. I've done subdivisions where we put the covenants, conditions and restrictions in where we said these ten lots have to be a townhouse and they have to be below this cost or the executive estate lots have to be \$500,000 or more. So, you have a lot of control over that sort of thing. Enforcing it is a different issue. It brings its own administrative burdens. It's on you to enforce it if somebody doesn't comply but you certainly have the power with those kinds of stipulations."

Chairman Zavodny said, "So, how much trouble do we get in if we phase in a place where we have the \$285,000 cap and someone builds something that exceeds that and we've used the workforce grant? How much trouble do we get in?"

Michael Sands said, "I'm sure that they have the right to audit all of those records and if they find that you didn't abide by the terms of the program that you could be required to,

whether if it's a loan program then your loan gets accelerated and if it's a grant, you have to pay back the grant."

Chairman Zavodny said, "Well, that scares me."

CDA Member Bruce Meysenburg said, "I've got a question. How much problem do you have with the higher end people coming in and building a \$500,000 to \$600,000 home and then you've got people that are building \$250,000 to \$280,000 homes around them. Do you find that much of a problem? Do they want to have their higher end homes in one area versus the lower end homes?"

Michael Sands said, "That's probably a better question for an architect or engineer. Maybe Dave can speak to it, just because there's no real legal issues to that. Certainly, as far as I've seen in these subdivisions is some sort of cohesiveness. If you're going to have an area with \$250,000 homes and you're going to have an area with \$400,000 homes. You probably don't want those areas intermingled. You probably want them separated just so you build a nice cohesive subdivision, would probably be my input on that. I'm sure that someone who has more planning or engineering or architecture experience could give you better detail on the best way to outline that on what you would typically see separated."

CDA Member Bruce Meysenburg said, "My only concern is if you're turning away people that want to build a higher end home because you've got higher end homes in there."

Michael Sands said, "That's a reasonable concern for sure. I think you would probably hurt the marketability if you are going every other house – a \$400,000 home next to a \$200,000 home. I think it would hurt the marketability. I think if you want to construct it that way, that the lots on the east side are required to build a higher value home and the ones on the other side of the subdivision are the lower value homes."

Dana Trowbridge said, "Is it your experience, Mike, that those will self-separate? The \$600,000 house isn't going to want to build next to the \$200,000 house. I can see them self-separating."

Michael Sands said, "Yeah. This is a little bit outside my realm, but again, just based on experience and the developers that I work with, yes, I would say that is accurate."

Dave Ziska said, "Don't you think, Michael, that if somebody has that thought, they are going to want an acre and a half or two acres of land to put a house like that and this isn't really going to be set up like that."

Michael Sands said, "We're probably more realistically talking about \$325,000 homes and \$225,000 homes with how these lots are set up. \$225,000 is probably low, but maybe \$250,000. A \$600,000 home doesn't really fit with the character of the subdivision, just based on the lot sizes. To your original point, yes, I think you have to be mindful of those things because it can be a detractor."

Chairman Alan Zavodny asked if there were other questions.

Chairman Alan Zavodny said, "I think this gives us a blueprint of what we want. We need to see what SENDD can do and if we phase in and we're going to need to do some research on what you can build for \$285,000 when you put the lot in there. If that's going to be

one of the phases that we do and to keep under \$285,000, we have to be really diligent about what goes there.”

Dana Trowbridge said, “That answer should come from the developer.”

Chairman Alan Zavodny said, “Well, we’re the developer to some extent.”

Dana Trowbridge said, “To a point.”

Chairman Alan Zavodny said, “Yes, but we have to be really careful how we set up the rules.”

Michael Sands said, “So, if Cliff Mezner is who you’ve been talking to, I think you’d be very wise to chat with him and see what kind of homes that he envisions building up there and what they would cost. Like you said, the City certainly is the developer but relying entirely on what’s going to be built there privately but I certainly don’t think that it would be a bad decision if you have some local developer in mind that you think would be partaking in this to chat with him on what he would envision. If we’re creating lots that aren’t what folks want to build on, then that’s obviously not good for anyone.”

Chairman Alan Zavodny said, “I think that tells us what our next steps are. We certainly need to meet with Cliff and some of our local guys who do a lot of building for people and I still think that we haven’t met our demand on duplexes and I don’t like the duplex moniker. I think it is a townhouse. I think there will be a lot of demand for that type of construction. I think we’ll take those next steps and see what the dollars look like and that will really dictate what our next moves are, as far as phasing and those kinds of things and we need to see what the grant program ends up looking like. Does that sound like a reasonable plan?”

Michael Sands said, “That sounds reasonable to me and I’m happy to answer any questions. Tami has my contact information. If anything comes up don’t hesitate to reach out.”

Chairman Alan Zavodny said, “Thank you both for your time tonight. That answered a lot of questions. I could have saved myself a lot of grief worrying about things. Are we in agreement that our next steps are to talk to some developers and I think we need to talk to SENDD, even though the first time that was a swing and a miss. They didn’t exactly do what they promised us that they would do, either.”

CDA member Kevin Woita said, “I think that sixty foot lots are out.”

CDA member Tom Kobus said, “I think the minimum should be seventy-five foot.”

Discussion followed.

City Attorney Joanna Uden said, “May I make a suggestion?”

Chairman Alan Zavodny said, “Please do.”

City Attorney Joanna Uden said, “If SENDD is an expert on interpreting these statutes, they are a little vague to me on what exactly they require you to report and if there’s someone there that has more knowledge on how the legislature adopted these, it might be worth having a step where you ask someone who was there what kind of recourse can happen and when that can happen because, to me, it looks like what you’re reporting isn’t really anything to do with

how much the house is selling for. Not that they aren't going to see that in public record anyway. It's not a requirement, I don't think."

Chairman Alan Zavodny said, "If you have some time over the next couple of days, I think it would be helpful because he didn't know right off, who is actually administering the grant. He didn't think that it was the Department of Economic Development so what is the entity that we're talking about?"

City Attorney Joanna Uden said, "This says the Department of Economic Development. This is the Rural Workforce Housing Investment Act which was passed April 27, 2017 and was LB518."

Dana Trowbridge said, "Cliff says that he expects something else to come out of the legislature this year that will impact rural housing. He said that there is so much money down there and the cat fight has started, but Rural Workforce Housing had a nice editorial in the World Herald about this coming to the top of the needs list for the State of Nebraska to grow."

Chairman Alan Zavodny said, "The Governor has said that it is a priority. It's come up on floor debate the last couple of days."

Dana Trowbridge said, "Kevin, I'm not sure that I would strike sixty-foot lots, at this point. By striking them you say that we're not going to do any small footprint houses."

CDA member Kevin Woita said, "I don't think that you can have the whole thing in sixty-foot lots."

Chairman Alan Zavodny said, "We need to identify an area where sixty-foot lots are okay so you can build a fifteen hundred square foot house. There would be other areas where they can be bigger."

CDA member Kevin Woita said, "Of the two plans that they showed us, I don't like the one that has all sixty-foot lots. That's a bad idea."

Dana Trowbridge said, "I have not seen that, and I agree."

Chairman Alan Zavodny said, "I think we covered a lot of ground and made some good progress tonight. We learned a lot. Since it's almost ten o'clock, I think we should call it good."

CDA member Pat Meysenburg made a motion to adjourn. CDA Member Tom Kobus seconded the motion. The motion carried and Chairman Alan Zavodny declared the meeting adjourned at 9:58 p.m.

Tom Kobus: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Absent, John Vandenberg: Yea, Kevin Woita: Yea, Alan Zavodny: Yea
Yea: 6, Nay: 0, Absent: 1

